

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MELISSA LEE ROTHERMEL, and	:	CIVIL ACTION NO. 1:16-CV-1669
C.R., minor, by her parent and natural	:	
guardian, CHAD ROTHERMEL,	:	(Chief Judge Conner)
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
DAUPHIN COUNTY,	:	
PENNSYLVANIA, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 29th day of September, 2017, upon consideration of the motions pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) filed by all identified defendants *sub judice*, to wit: a motion (Doc. 22) by the Dauphin County Adult Probation and Parole Office (“Parole Office”); a motion (Doc. 25) by the Pennsylvania State Police (“State Police”), Tyree Blocker (“Commissioner Blocker”) in his capacity as Commissioner of the State Police, and Trooper David Grbich (“Trooper Grbich”), collectively herein, the “State Police defendants”; and a motion (Doc. 26) by Dauphin County, the Dauphin County Prison, the Dauphin County Sheriff’s Office, and the Dauphin County Clerk of Courts Office, collectively herein, the “Dauphin County defendants,” and further upon consideration of the responsive arguments (Docs. 24, 36, 37) of plaintiffs Melissa Lee Rothermel

(“Rothermel”) and C.R., a minor child, by and through her parent and natural guardian, Chad Rothermel, and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. The Parole Office’s motion (Doc. 22) is GRANTED and plaintiffs’ claims against the Parole Office in Counts II and III are DISMISSED with prejudice.
2. The State Police defendants’ motion (Doc. 25) is GRANTED in part and DENIED in part to the following extent:
 - a. Plaintiffs’ claims against the State Police (Counts I and III) are DISMISSED with prejudice.
 - b. Plaintiffs’ claims against Commissioner Blocker are DISMISSED without prejudice for failure to identify him in any count in the amended complaint.
 - c. Plaintiffs’ claims against Trooper Grbich for monetary damages in his official capacity (Counts I and II) are DISMISSED with prejudice.
 - d. Plaintiffs’ claims against Trooper Grbich for prospective injunctive or declaratory relief in his official capacity (Counts I and II) are DISMISSED without prejudice.
 - e. Plaintiff C.R.’s claim for false arrest against Trooper Grbich in his individual capacity (Count I) is DISMISSED without prejudice.
 - f. Plaintiff Rothermel’s claim for unlawful search and seizure against Trooper Grbich in his individual capacity (Count II) is DISMISSED without prejudice.
 - g. Plaintiffs’ claim under the Pennsylvania Constitution against Trooper Grbich (Count IV) is DISMISSED with prejudice.

- h. The State Police defendants' motion (Doc. 25) is DENIED to the extent it seeks dismissal of plaintiff Rothermel's claim for false arrest against Trooper Grbich in his individual capacity (Count I) without prejudice to Trooper Grbich's right to reassert qualified immunity as a defense at a later stage of these proceedings.
- 3. The Dauphin County defendants' motion (Doc. 26) is GRANTED as follows:
 - a. Plaintiffs' claims for false arrest and unlawful search and seizure against Dauphin County and Dauphin County Prison (Counts I and II) are DISMISSED with prejudice.
 - b. Plaintiffs' Monell claims against the Dauphin County Prison, the Dauphin County Sheriff's Office, and the Dauphin County Clerk of Courts Office (Count III) are DISMISSED with prejudice.
 - c. Plaintiffs' Monell claim against Dauphin County (Count III) is DISMISSED without prejudice.
- 4. Plaintiffs are granted leave to amend their pleading within twenty (20) days of the date of this order, consistent with the above paragraphs and the accompanying memorandum. In the absence of a timely-filed second amended complaint, the above-captioned action shall proceed on Rothermel's remaining claim for false arrest against Trooper Grbich in his individual capacity.
- 5. Plaintiffs are further directed to identify and effect service upon the "several presently unknown" employees of Dauphin County, the Parole Office, the Dauphin County Prison, the Dauphin County Sheriff's Office, the Dauphin County Clerk of Courts Office, and the State Police in any amended pleading filed pursuant to paragraph 4. Failure to identify and serve the unidentified defendants shall result in dismissal of all claims thereagainst. See FED. R. CIV. P. 4(m).

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania